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September 14, 2006

VIA HAND DELIVERY

Ms. Victoria Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, NW
Washington, DC 20590

Re: STB Finance Docket 34284, Southwest Gulf Railroad Company Construction and Operation Exemption – Medina County, TX

Dear Ms. Rutson:

As previously reported by petitioner Southwest Gulf Railroad ("SGR') in connection with SEA's assessment of cumulative impacts related to the planned SGR rail line, Vulcan Materials Company ("Vulcan") submitted an application to the Texas Commission on Environmental Quality ("TCEQ") for approval of a Water Pollution Abatement Plan ("WPAP") relative to the quarry that Vulcan is planning for Medina County. That quarry will be served by the planned SGR line. By the attached August 24, 2006 letter, the TCEQ has now approved the WPAP application, subject to various conditions.

The core purpose of the WPAP, which was developed following the completion of sophisticated hydrological and floodplain studies of the area, is to ensure that practices at the Medina quarry will protect the Edwards Aquifer. The WPAP thus sets forth a plan designed for protection of this important water resource. The TCEQ's approval of the WPAP references the various best management practices that Vulcan will follow in connection with its operations at the quarry, including practices relating to the control of stormwater runoff through a variety of means, the construction of sedimentation/filtration basins and the disposal of sediment, the regulation of hydrocarbons and hazardous materials in the area, the disposal of domestic wastewater, the management of wells in the area, the retention of a vegetated buffer around the quarry and streambeds, and the management of stream crossings.

Adherence to the approved WPAP will prevent any runoff from the quarry plant area into the surrounding area, including the area outside the quarry plant where the SGR line will be located. While

the WPAP does not directly address flooding, it will help ensure that stormwater is not directed from the quarry area into local streams and therefore that the quarry operations will not contribute to flooding in the area. SGR also intends to consult further with the Medina County Flood Administrator and the U.S. Army Corps of Engineers as necessary to ensure that its rail line has no adverse impact on flooding in the area, regardless of the final alignment that is approved for construction.

The WPAP permit, coupled with a permit previously received from TCEQ allowing the operation of a temporary crusher, will allow Vulcan to undertake some crushing on the site of its planned Medina quarry using a temporary crusher. Plans for initiating such crushing are now being finalized. Large scale crushing cannot commence until an air quality permit is issued for the quarry operations. As previously reported, Vulcan Construction Materials, L.P. has applied to the TCEQ for such a permit. The TCEQ, which published an initial decision and notice with respect to the air quality permit application on July 22, 2006, has decided (with Vulcan's concurrence) to move forward with a contested case hearing on the permit application. A preliminary public hearing on the application was held in Hondo on September 12.

We would be pleased to answer any questions you might have on these matters.

Sincerely,

David H. Coburn
Attorney for Southwest Gulf Railroad

cc: Ms. Rini Ghosh
Ms. Jaya Zyman Ponebshek

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

August 24, 2006

Ms. Aleisha Knochenhauer
Vulcan Construction Materials, LP
800 Isom Road, Suite 300
San Antonio, Texas 78216

Re: Edwards Aquifer, Medina County
NAME OF PROJECT: Vulcan Materials Medina Quarry; Located north of County Road 353 and east of County Road 351; Medina County, Texas
TYPE OF PLAN: Request for Approval of a Water Pollution Abatement Plan (WPAP); 30 Texas Administrative Code (TAC) Chapter 213 Edwards Aquifer; Edwards Aquifer Protection Program ID No. 2502.00, Investigation No. 462519, Regulated Entity No. RN104921630

Dear Ms. Knochenhauer:

The Texas Commission on Environmental Quality (TCEQ) has completed its review of the WPAP application for the referenced project submitted to the San Antonio Regional Office by Overby Descamps Engineers, Inc. on behalf of Vulcan Construction Materials, LP on March 22, 2006. Final review of the WPAP submittal was completed after additional material was received on June 28, 2006, July 11, 2006, and July 18, 2006. As presented to the TCEQ, the Temporary and Permanent Best Management Practices (BMPs) and construction plans were prepared by a Texas Licensed Professional Engineer to be in general compliance with the requirements of 30 TAC Chapter 213. These planning materials were sealed, signed, and dated by a Texas Licensed Professional Engineer. Therefore, based on the engineer's concurrence of compliance, the planning materials for construction of the proposed project and pollution abatement measures are hereby approved subject to applicable state rules and the conditions in this letter. The applicant or a person affected may file with the chief clerk a motion for reconsideration of the executive director's final action on this Edwards Aquifer protection plan. A motion for reconsideration must be filed no later than 23 days after the date of this approval letter. *This approval expires two (2) years from the date of this letter unless, prior to the expiration date, more than 10 percent of the construction has commenced on the project or an extension of time has been requested.*

COMMENTS

Comments regarding the proposed quarry were provided, on April 24, 2006, August 3, 2006 and August 23, 2006, by the Medina County Environmental Action Association (MCEAA), The Gardner Law Firm, and Mr. Joseph F. Manak. The MCEAA provided a petition with 104 signatures of persons in opposition to the quarry. These comments were considered in the application review and the major concerns were discussed in the associated investigation report (CCEDS #462519). On July 12, 2006, The Gardner Law Firm requested 30 additional days to respond to Vulcan Materials' response to the TCEQ's request for information. On August 3, 2006, additional comments were received from The Gardner Law Firm that included a table entitled, "MCEAA Party of Contested Case Hearing Signature List". This table included 77 signatures of members of MCEAA, their addresses, proximity of their property to the proposed quarry site, current medical conditions, and current land use of their property.

At the request of the TCEQ, comments supporting the subject quarry and/or related railroad were provided by Vulcan Materials from the Hondo ISD, City of Hondo, Medina County Historical Society, 26 individual letters, and a petition with 215 signatures. These comments were also considered in the application review.

PROJECT DESCRIPTION

The proposed commercial project is a limestone quarry that will have an area of approximately 1,776 acres on three tracts of land. As presented, approximately 1,070 acres will be quarried in four pits. The pits will be excavated and separated by existing ephemeral stream channels. As presented, the ephemeral stream channels will only be quarried with prior approval from all appropriate jurisdictional agencies. A plant site of 171 acres will include equipment for crushing, processing, washing, water recycling, settling ponds, stockpiling and distribution operations, including electric crushers, screens, material conveyors, scrubbers (wet and dry), screeners (wet and dry), load-out hoppers, a rail line, an access road, and haul roads. The impervious cover for the 1,776 acre site will be 39.27 acres (2.21 percent). No on-site sewage facility is proposed at this time. Project wastewater (domestic) will be collected in portable toilets and disposed of two times per week by a TCEQ registered waste disposal service. Blasting agents will be used in the mining process. The mining will proceed through the Edwards Limestone no deeper than 25 feet above the potentiometric surface of the Edwards Aquifer.

During the estimated 40 year life of the quarry, the first three phases of operation listed below may occur sequentially and/or simultaneously:

1. Site preparation,
2. Excavation and processing,
3. Pit closure, and
4. Site closure/reclamation.

POLLUTION ABATEMENT MEASURES

The Permanent Stormwater Section of the application states, "For water quality load calculations, the plan areas do not fall into the obvious categories of paved and grassed areas. The only true impervious cover on site is the paved entrance road (in area 2) which discharges off of the recharge zone. However, it is recognized that other areas will be packed down, thereby creating a runoff condition which is somewhere between pervious and impervious."

However, stormwater treatment was provided for impervious cover, which includes but is not limited to, "pavement including streets, driveways, parking lots, etc. . . . compacted road base, such as that used for parking areas. . . other surfaces that prevent the infiltration of water into the soil." (RG-348, Section 3.3.2)

The total suspended solids (TSS) generated by the increase in impervious cover is 37,385 pounds/year. The required load to be treated is 80% of the total, or 29,908 pounds per year. To prevent pollution of stormwater runoff originating on-site or up-gradient of the site and potentially flowing across and off the site after construction, the measures listed below will be provided to treat 32,591 pounds per year from

the on-site impervious cover outside of the quarry pits. No impervious cover in the quarry pits is proposed.

The retention basins are designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices." The basins will incorporate sedimentation as described below. In lieu of irrigation of vegetation, the captured water will be pumped to the plant area and water treatment plant to be used in processing.

The full sedimentation/filtration basins are designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices." The basins will incorporate sedimentation and filtration as described below.

1) During Site Preparation:

   A) Prior to creating pits by excavation, stormwater runoff from the plant site and quarried areas will be controlled by silt fences and rock berms as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1) signed by the project engineer on 6/28/06, hereafter referred to as Exhibit 2.1.

2) During Excavation and Processing:

   A) Two retention basins and eight sand filter basins will be constructed, operated and maintained to insure that 80% of the incremental increase in the annual mass loading of Total Suspended Solids from the site caused by the long-term regulated activity is removed. These quantities are calculated in accordance with technical guidance prepared or accepted by the executive director. For the two retention basins, in lieu of irrigation of vegetation, the captured water will be pumped to the plant area and water treatment plant to be used in processing.

   B) Plant Site:

      i) Area A (Processing/shipping area): To prevent pollution of stormwater runoff originating on-site or up-gradient of Area A and potentially flowing across and off the site after construction, three water quality basins (two retention basins and one sand filter basin) will be constructed.

         (1) Basins A1 and A3 are retention basins designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and are summarized in Tables IA and IB below.

Table IA

Summary of Water Quality Treatment Provided by Two Retention Basins

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft^3)	Design Capture Volume (ft^3)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)

A1	39.74	8.61	27,094	32,513	6,557	8,196
A3	30.76	12.09	39,534	39,903	9,208	11,510
Total	70.50	20.70	---	---	15,765	19,706

Table IB

Basin	Runoff Depth	Impervious Liner
A1	0.89"	Concrete
A3	0.97"	Concrete

(2) Basins A4 and B are full sand filter basins designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and are summarized in Tables IIA and IIB below.

Table IIA

Summary of Water Quality Treatment Provided by Two Full Sedimentation/Filtration Basins

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft^3)	Design Capture Volume (ft^3)	Required Sand Filter Surface Area (ft^2)	Design Sand Filter Surface Area (ft^2)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
A4	6.45	2.99	13,683	14,374	760	788	2,277	2,625
B	6.28	2.46	11,435	11,537	635	643	1,874	2,172
Total	12.73	5.45	--	--	--	--	4,151	4,797

Table IIB

Basin	Runoff Depth	Surface Area of Sand Filter	Sand Thickness	Underdrain Piping	Impervious Liner
A4	1.44"	788	18"	Yes	Concrete
B	1.38"	643	18"	Yes	Concrete

ii) Area B (Draining to Basin B): To prevent pollution of stormwater runoff originating on-site or up-gradient of Stockpile B and potentially flowing across and off the site after construction, a full sedimentation/filtration basin will be constructed. It is designed in accordance with the 2005 edition of the TCEQ's "Complying with the Edwards Aquifer Rules: Technical Guidance on Best Management Practices," and is summarized in Tables IIA and IIB above.

iii) Stockpile Areas: Per the note on the plan sheet entitled "Temporary Storm Water Controls and Long Term Temporary Best Management Practices" (Sheet 3 of 3), "stockpile areas outside of the railroad loop will be cleared only as product is available. Not more than 10 acres will be cleared at a time. A long term [temporary] rock berm with silt fence will be placed down gradient of the disturbed area. Once stockpile material is placed over the cleared area it will be considered as reestablished and a new area of not more than 10 acres may be cleared. A long term temporary rock berm with silt fence will be placed down gradient of the stockpile. Long term BMPs must be in place before any stockpiling can begin."

C) Quarry Pits:

i) The quarry pits will have a 200' wide vegetated buffer adjacent to the site perimeter, as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).

ii) Until each quarry pit area is mined below its lowest surface elevation, a temporary earthen berm will be constructed to prevent stormwater runoff from leaving the disturbed area. When the final limit of the quarry is reached, the temporary berm will then become a permanent berm.

iii) Lift Stabilization: Quarry stabilization is defined in the application as "when all loose rock material has been compacted or removed to solid rock."

iv) Surface Stream Crossings: Until each quarry pit area is mined below its lowest surface elevation, a temporary earthen berm, or rock berm with silt fence, will be constructed to prevent stormwater runoff from entering the stream channels. When the quarry pit is excavated below the stream channel, the berms will no longer be necessary. A detail is shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1). Stream channel crossings for vehicles are addressed below.

v) Six full sand filter basins (summarized in the Table IIAs and IIB below) will be constructed, operated and maintained to insure that 80% of the incremental increase in the annual mass loading of Total Suspended Solids from six assembly/staging areas for staff and vehicles is removed. Their locations are shown on Exhibit 2.1.

Table IIIA

Summary of Water Quality Treatment Provided by Six Full Sedimentation / Filtration Basins

For Quarry Pits

Watershed Area/Basin	Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft^3)	Design Capture Volume (ft^3)	Required Sand Filter Surface Area (ft^2)	Design Sand Filter Surface Area (ft^2)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
Pit 1 to Pit 2	2.67	2.67	17,446	17,990	969	1,003	2,033	2,302

Pit 2 to Pit 1	2.67	2.67	17,446	17,990	969	1,003	2,033	2,302
Pit 2 to Pit 3	0.67	0.67	4,378	9,007	243	506	510	538
Pit 3 to Pit 2	0.67	0.67	4,378	9,007	243	506	510	538
Pit 1 to Pit 4	1.35	1.35	8,821	9,007	490	506	1,028	1,164
Pit 4 to Pit 1	1.35	1.35	8,821	9,007	490	506	1,028	1,164
Total	9.38	9.38	---	---	---	---	7,142	8,088

Table IIIB

Basin	Runoff Depth	Surface Area of Sand Filter	Sand Thickness	Underdrain Piping	Impervious Liner
Pit 1 to Pit 2	1.5"	969	18'	Yes	Concrete
Pit 2 to Pit 1	1.5"	969	18"	Yes	Concrete
Pit 2 to Pit 3	1.5"	243	18"	Yes	Concrete
Pit 3 to Pit 2	1.5"	243	18"	Yes	Concrete
Pit 1 to Pit 4	1.5"	490	18"	Yes	Concrete
Pit 4 to Pit 1	1.5"	490	18"	Yes	Concrete

In lieu of capturing and treating stormwater runoff from the four haul roads crossing streams, the 2,850 pounds of TSS generated will be compensated for by the overtreatment provided in other on-site water quality structures. Treatment of the TSS is accounted for in Tables IV and V below.

Table IV

Summary of TSS Load from Haul Road Stream Crossings & Plant Area

Watershed Area/Basin		Drainage Area (acres)	Imperv. Cover (acres)	Required Capture Volume (ft^3)	Design Capture Volume (ft^3)	Required Sand Filter Surface Area (ft^2)	Design Sand Filter Surface Area (ft^2)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
Haul Road	Pit 1 to Pit 2	0.65	0.65	---	---	---	---	495	0
	Pit 2 to Pit 3	0.16	0.16	---	---	---	---	122	0

	Pit 1 to Pit 4	0.31	0.31	---	---	---	---	236	0
	A4	0.43	0.43	---	---	---	---	328	0
	B	0.39	0.39	---	---	---	---	298	0
Plant Area	A1	0.37	0.37	---	---	---	---	282	0
	A3	1.43	1.43	---	---	---	---	1089	0
Total		3.74	3.74	---	---	---	---	2,850	0

Table V

Summary of TSS Load

(Pounds/year)

Watershed Area/Basin	Impervious Cover (Acres)	Minimum Target TSS Removal (lbs/yr)	Design TSS Removal (lbs/yr)
Table IA	20.70	15,765	19,706
Table IIA	5.45	4,151	4,797
Table IIIA	9.38	7,142	8,088
Table IV	3.74	2,850	0
Total	39.27	29,908†	32,591‡

† - Target removal is 29,908#. As shown in Table IV, seven haul road stream crossings will not be treated directly, but by compensation in other basins as presented in Tables IA, IIA, IIIA, and summarized in Table V.

‡- Design removal exceeds target removal by 2,683 pounds/year (32,591 – 29,908 = 2,683).

vi) Disposal of Sediment from Water Quality Basins: Sediment is to be collected and tested for TPH (TX-1005) and BTEX (8021 or 8260). Per Vulcan Materials' letter dated July 19, 2006, "Analytical results will be compared to published action levels defined by TCEQ pursuant to applicable Texas Risk Reduction Program (TRRP) rules (30 TAC 350). Action levels will be utilized as a basis for comparison to evaluate potential hydrocarbon impacts to sediments. By definition, actions levels are constituent-specific and correspond to maximum concentrations that can remain in affected environmental media within a residential land use setting. On the basis of analytical testing data, sediment will be properly classified and subject to the following procedures:

"Sediments that do not exhibit measurable concentrations of hydrocarbon contaminants or are at concentrations below TCEQ action levels will not be subject to further special handling procedures and will be used onsite as part of the earthen perimeter berm."

"Sediments that exhibit hydrocarbon concentrations in excess of TCEQ action levels will be staged and subject to onsite treatment in order to reduce hydrocarbon concentrations to acceptable levels prior to use."

"As part of the treatment process, sediments will be evenly distributed within the containment area to facilitate the rapid volatilization and natural attenuation of residual hydrocarbons constituents. If necessary, the treatment process may be enhanced by the periodic addition of hydrocarbon degrading microorganisms. Hydrocarbon concentrations will be monitored throughout the treatment process by periodic sampling and analysis. Once a determination is made that residual hydrocarbon concentrations are below TCEQ action levels, sediments will be used onsite as part of the earthen perimeter berm."

A detail of the encapsulated sediment is shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).

D) Hydrocarbons and Hazardous All regulated quantities of hydrocarbons and hazardous substances will be stored on a separate site to the south of and off the Recharge Zone.

E) Scheduled vehicle maintenance will be conducted on a separate site to the south of and off the Recharge Zone.

F) Minor maintenance such as repair or replacement of tires, wheels, faulty bed sensors on haul equipment, broken windshields, communication equipment, broken hoses and belts, welding of equipment or parts, etc. may be conducted on-site. All other vehicle maintenance will be conducted on a separate site to the south of and off the Recharge Zone.

G) Wastewater: Project wastewater (domestic) will be and disposed of twice per week a TCEQ registered waste disposal service.

H) Sensitive Features. All geologic features are proposed to be mined out. Protective measure to be provided for the features during plant operation and/or excavation are listed below.

i) Plant Site Area A: The Wurzbach well (WZ-S45) will be converted to a piezometer (an instrument used to measure the change of pressure of a material subject to hydrostatic pressure).

ii) Plant Site Area B: No sensitive features are present in Plant Site Area B.

iii) Quarry Pits: As pits are mined out, a positive slope will be maintained away from all sensitive features to prevent flows from entering them. A detail drawing is shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).

iv) Wells in Quarry Areas: The two other wells (Schweers well & Boehme/Belzen well) will be properly plugged when and if mining progresses to within 100 feet of them.

I) Vegetated Buffer: A 200 foot wide buffer will be provided around the property boundaries, as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1). For the internal ephemeral streams, a 200 foot buffer, as measured from the center line of the stream, will be provided, as shown on the plan sheet in the application entitled, "Overall Site Plan of Entire Quarry" (Exhibit 2.1).

J) Vertical Separation Between Quarry Floor & Potentiomentric Surface:

A vertical separation distance of 25 feet above the water table has been approved by the TCEQ at the Deep Creek Quarry (Medina County) and the Adkins Ranch Quarry (Williamson County), however, the applicant has committed to mine no deeper than 25 above the potentiometric surface.

The on-site wells will be used to measure the water elevation. If the wells cannot be entered, they will be properly plugged and replaced with piezometers.

K) Quarry Pit Stabilization: The application states that conventional stabilization practices are not practical in a quarry. When mining lifts are excavated, and at the completion of the excavation for each pit, stabilization will be defined as, "when all loose rock material has been compacted or removed to solid rock."

3) Pit Closure:
An exception was requested to the requirement to provide permanent best management practices (BMPs) for the quarry pits after completion of quarrying. The justification offered for granting the exception was that there will be no increase in impervious cover and there will be no runoff from the site. Equivalent protection will be provided by the quarry pits because it will retain 100% of the sediment loading without discharging to surface water.

4) Site Closure/Reclamation:
The quarry pits will be addressed as described in 3) above. The plant area will be dismantled and removed from the site.

The proposed measures described above are presented to meet the required 80 percent removal of the increased load in total suspended solids (TSS) caused by the project.

A request was made for an exception to the requirement of permanent BMPs for this project after pit closure and/or site closure/reclamation. The justification provided was that "the normal procedure for sizing permanent BMPs (i.e. 80% removal of TSS from impervious cover areas before they discharge from the site) is not applicable to the floor of the quarry pits. This is because they have no impervious cover and no surface water discharge from said pits." Equivalent water quality protection is presented to be provided because, 1) the quarry operator will report any sensitive features discovered during mining, 2) stormwater does not surface discharge from the quarry pit, and 3) since the TCEQ regards this (single family residential subdivisions with 20% or less impervious cover) as equivalent protection of the aquifer, the quarry pits with no impervious cover and no surface water runoff are actually better than a residential subdivision with less that 20% impervious cover."

The excavation and processing phase, where the long-term temporary BMPs described above will be provided, is analogous to a retail, office or residential project where permanent BMPs are required after completion of construction. The site closure/reclamation phase of a quarry is not analogous to "completion of construction" for non-quarry types of commercial development.

Point 1 of the equivalent water quality protection presented above [the quarry operator will report any sensitive features discovered during mining] is irrelevant at the stage of pit closure or quarry closure/reclamation because all mining will have been completed.

Point 2 of the equivalent water quality protection presented above [stormwater does not surface discharge from the quarry pit] is irrelevant. The TCEQ agrees that stormwater will not leave the quarry pits, however, the quarry floor will become the surface, albeit disturbed, of the Edwards Aquifer Recharge Zone.

Point 3 of equivalent water quality protection presented above [since the TCEQ regards this (single family residential subdivisions with 20% or less impervious cover) as equivalent protection of the aquifer, the quarry pits with no impervious cover and no surface water runoff are actually better than a residential subdivision with less that 20% impervious cover.] is an invalid comparison. The stabilization of a residential subdivision with vegetation is not the same as quarry stabilization ("when all loose rock material has been compacted or removed to solid rock.").

GEOLOGY

According to the geologic assessment included with the application, the Georgetown Formation and the Devil's River Formation (upper and lower) are exposed at the site. Transects of 15 meters revealed 99 geologic and manmade features on the project site. A total of 12 features were assessed as sensitive (3 wells, 6 faults, 1 sinkhole, and 2 caves). The San Antonio Regional Office conducted a site investigation on May 26, 2006. The plant area and areas to be quarried were observed. The site was mostly covered with thick vegetation (juniper, oak, brush, and grass) and was accessible by ranch roads and walking. The following features were observed - three on-site water wells (WZ-S45, SC-S7, B-S11), six faults (WZ-S71, WZ-S72, SC-S22, SC-S23, B-S30, B-S31), one sinkhole (SC-S2), three closed depressions (WZ-S8, WZ-S56, B-S5), five solution enhanced fractures (WZ-S68, SC-S15, SC-S18, B-S15, B-S17), two caves (SC-S14, B-S19), and one solution cavity (B-S20). The site is generally as described in the geologic assessment. The features will be mined out. Protective measures during plant operation or excavation that will be provided for the features are listed above in Paragraph F of the Pollution Abatement Measures Section.

SPECIAL CONDITIONS

Plant Operations & Quarrying:

I. The BMPs for the plant site and stockpile area shall be operational prior to any crushing, processing, washing, water recycling, stockpiling, etc.

II. The BMPs for the stream crossings shall be operational prior to site preparation, overburden removal, excavation, etc. in each quarry pit.

III. Project wastewater (domestic) will be collected twice per week by a TCEQ registered waste

disposal service for appropriate disposal off of the site. This approval does not authorize domestic wastewater disposal on the site.

IV. Exhibit 2.1 shows a greywater disposal pipe at the cabin on the Boehme/Belzen property. All other on-site sewage facilities shall comply with the applicable requirements of 30 TAC 285. Within 90 days of the date of this letter, provide documentation from the Medina County Authorized Agent for OSSF that wastewater disposal at the site complies with the applicable requirements of 30 TAC 285.

V. The surface vegetation is to be disposed of by incineration. The ash shall be properly disposed of according to 30 TAC 330 or 30 TAC 335, as applicable.

VI. No part of the quarry floor shall be any closer than 25 feet above the potentiometric surface. Prior to September 1, 2007, and every five years thereafter, the potentiometric surface for the entire site shall be derived from three seasonal measurements, in each of the three on-site wells concurrently, and reported to the TCEQ as a potentiometric map for the site. The surface elevations and depths to water shall also be reported on the map for each well and each collection event. For uniformity, the collection times should be coordinated with regional data collection conducted by such agencies as the EAA, USGS, Medina County Underground Water Conservation District or other relevant agencies. The quarry floor shall stay 25 feet above the highest elevation of the potentiometric surface.

VII. All sediment and or media removed from the retention basins and the full sedimentation/ filtration basins during maintenance activities shall be properly disposed of according to 30 TAC 350, as applicable. Treatment and disposal records shall be kept on site and available for review by Commission staff for the life of the project.

VIII. Perimeter berms shall be inspected and maintained annually, or more often if necessary, to ensure functionality. Maintenance records shall be kept on site and available for review by Commission staff for the life of the project.

IX. A 200 foot buffer, as measured from the centerline of the dry stream channels shall be provided. The dry stream channels shall not be quarried without a modification to this approved WPAP.

X. The quarry will excavate along the stream channels that pass through the site, thus creating an aqueduct of the natural channels. Authorization from the TCEQ's South Texas Watermaster may be required pursuant to Chapter 11.121 of the Texas Water Code to divert surface water from the streams to the quarry pits. This letter does not provide authorization for any requirements of the TCEQ's Watermaster Program for stream crossings for the haul roads and railroad.

XI. Based on the plan review, the nature of the regulated activity (site closure/reclamation), the BMPs provided during the excavation and processing phase, commission regulations, and consistency with previous quarry approvals pursuant to 30 TAC 213, and not the justifications provided, the TCEQ grants the exception requested for not providing BMPS after the plant site and quarrying operations have been completed.

XII. This approval does not authorize manufacturing of explosives on the site.

XIII. Exhibit 2.1 shows car bodies, and existing structures to be demolished before quarrying. The car bodies and demolished structures shall be disposed of according to all applicable state and federal regulations.

XIV. Perform quarterly geologic inspections of the site for sensitive features.

XV. Provide feature recognition training for plant and quarry operators.

XVI. This project shall conform to all applicable local, state, and federal requirements.

Post Plant Operations & Post Quarrying:

XVII. At the conclusion of quarrying, and pursuant to 30 TAC 213.4(j)(2&3), the holder of any approved Edwards Aquifer protection plan must notify the appropriate regional office in writing and obtain approval from the executive director prior to initiating any change in the nature or character of the regulated activity from that which was originally approved or a change which would significantly impact the ability of the plan to prevent pollution of the Edwards Aquifer; and any development of land previously identified as undeveloped in the original water pollution abatement plan.

XVIII. The water quality basins shall remain operational as long as impervious cover remains on the site.

XIX. Unless authorized by a modification to the WPAP, maintenance records shall be maintained for the impervious cover, retention basins, sedimentation/filtration basin, and plant area operations still present after site closure/reclamation.

STANDARD CONDITIONS

1. Pursuant to Chapter 7 Subchapter C of the Texas Water Code, any violations of the requirements in 30 TAC Chapter 213 may result in administrative penalties.

Prior to Commencement of Construction:

2. Within 60 days of receiving written approval of an Edwards Aquifer protection plan, the applicant must submit to the San Antonio Regional Office, proof of recordation of notice in the county deed records, with the volume and page number(s) of the county deed records of the county in which the property is located. A description of the property boundaries shall be included in the deed recordation in the county deed records. A suggested form (Deed Recordation Affidavit, TCEQ-0625) that you may use to deed record the approved WPAP is enclosed.

3. All contractors conducting regulated activities at the referenced project location shall be provided a copy of this notice of approval. At least one complete copy of the approved WPAP and this notice of approval shall be maintained at the project location until all regulated activities are completed.

4. Modification to the activities described in the referenced WPAP application following the date of approval may require the submittal of a plan to modify this approval, including the payment of appropriate fees and all information necessary for its review and approval prior to initiating construction of the modifications.

5. The applicant must provide written notification of intent to commence construction, replacement, or rehabilitation of the referenced project. Notification must be submitted to the San Antonio Regional Office no later than 48 hours prior to commencement of the regulated activity. Written notification must include the date on which the regulated activity will commence, the name of the approved plan and program ID number for the regulated activity, and the name of the prime contractor with the name and telephone number of the contact person. The executive director will use the notification to determine if the approved plan is eligible for an extension.

6. Temporary erosion and sedimentation (E&S) controls, i.e., silt fences, rock berms, stabilized construction entrances, or other controls described in the approved WPAP, must be installed prior to construction and maintained during construction. Temporary E&S controls may be removed when vegetation is established and the construction area is stabilized. If a water quality pond is proposed, it shall be used as a sedimentation basin during construction. The TCEQ may monitor stormwater discharges from the site to evaluate the adequacy of temporary E&S control measures. Additional controls may be necessary if excessive solids are being discharged from the site.

7. All borings with depths greater than or equal to 20 feet must be plugged with non-shrink grout from the bottom of the hole to within three (3) feet of the surface. The remainder of the hole must be backfilled with cuttings from the boring. All borings less than 20 feet must be backfilled with cuttings from the boring. All borings must be backfilled or plugged within four (4) days of completion of the drilling operation. Voids may be filled with gravel.

<u>During Construction:</u>

8. During the course of regulated activities related to this project, the applicant or agent shall comply with all applicable provisions of 30 TAC Chapter 213, Edwards Aquifer. The applicant shall remain responsible for the provisions and conditions of this approval until such responsibility is legally transferred to another person or entity.

9. If any sensitive feature (caves, solution cavities, sink holes, etc.) is discovered during construction, all regulated activities near the feature must be suspended immediately. The applicant or his agent must immediately notify the Regional Office of the discovery of the feature. Regulated activities near the feature may not proceed until the executive director has reviewed and approved the methods proposed to protect the feature and the aquifer from potentially adverse impacts to water quality. The plan must be sealed, signed, and dated by a Texas Licensed Professional Engineer.

10. Three wells exist on the site. All water wells, including injection, dewatering, and monitoring wells must be in compliance with the requirements of the Texas Department of Licensing and Regulation under Title 16 TAC Chapter 76 (relating to Water Well Drillers and Pump Installers) and all other locally applicable rules, as appropriate.

11. If sediment escapes the construction site, the sediment must be removed at a frequency sufficient to minimize offsite impacts to water quality (e.g., fugitive sediment in street being washed into surface streams or sensitive features by the next rain). Sediment must be removed from sediment traps or sedimentation ponds not later than when design capacity has been reduced by 50 percent. Litter, construction debris, and construction chemicals shall be prevented from becoming stormwater discharge pollutants.

12. The following records shall be maintained and made available to the executive director upon request: the dates when major grading activities occur, the dates when construction activities temporarily or permanently cease on a portion of the site, and the dates when stabilization measures are initiated.

13. Stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, and construction activities will not resume within 21 days. When the initiation of stabilization measures by the 14th day is precluded by weather conditions, stabilization measures shall be initiated as soon as practicable.

<u>After Completion of Construction:</u>

14. A Texas Licensed Professional Engineer must certify in writing that the permanent BMPs or measures were constructed as designed. The certification letter must be submitted to the San Antonio Regional Office within 30 days of site completion.

15. The applicant shall be responsible for maintaining the permanent BMPs after construction until such time as the maintenance obligation is either assumed in writing by another entity having ownership or control of the property (such as without limitation, an owner's association, a new property owner or lessee, a district, or municipality) or the ownership of the property is transferred to the entity. The regulated entity shall then be responsible for maintenance until another entity assumes such obligations in writing or ownership is transferred. A copy of the transfer of responsibility must be filed with the executive director through the San Antonio Regional Office within 30 days of the transfer. A copy of the transfer form (TCEQ-10263) is enclosed.

16. Upon legal transfer of this property, the new owner(s) is required to comply with all terms of the approved Edwards Aquifer protection plan. If the new owner intends to commence any new regulated activity on the site, a new Edwards Aquifer protection plan that specifically addresses the new activity must be submitted to the executive director. Approval of the plan for the new regulated activity by the executive director is required prior to commencement of the new regulated activity.

17. An Edwards Aquifer protection plan approval or extension will expire and no extension will be granted if more than 50 percent of the total construction has not been completed within ten years from the initial approval of a plan. A new Edwards Aquifer protection plan must be submitted to the San Antonio Regional Office with the appropriate fees for review and approval by the executive director prior to commencing any additional regulated activities.

18. At project locations where construction is initiated and abandoned, or not completed, the site shall be returned to a condition such that the aquifer is protected from potential contamination.

If you have any questions or require additional information, please contact John Mauser of the Edwards Aquifer Protection Program of the San Antonio Regional Office at 210/403-4024.

Sincerely,

Bobby D. Caldwell

for Glenn Shankle
Executive Director
Texas Commission on Environmental Quality

GS/jkm

Enclosures: Deed Recordation Affidavit, TCEQ-0625
Change in Responsibility for Maintenance on Permanent BMPs, TCEQ-10263

cc: Mr. Dennis Hoyt, PE, Overby Descamps Engineers, Inc.
Mr. David Montgomery, Medina County
Mr. Robert J. Potts, Edwards Aquifer Authority
Ms. Luana Buckner, Medina County Underground Water Conservation District
Ms. Kathy Brown, TCEQ MC 173
TCEQ Central Records

Change in Responsibility for Maintenance on Permanent Best Management Practices and Measures

The applicant is no longer responsible for maintaining the permanent best management practice (BMP) and other measures. The project information and the new entity responsible for maintenance is listed below.

Customer: _____

Regulated Entity Name: _____

Site Address: _____

City, Texas, Zip: _____

County: _____

Approval Letter Date: _____

BMPs for the project: _____

New Responsible Party: _____

Name of contact: _____

Mailing Address: _____

City, State: _____ Zip: _____

Telephone: _____ FAX: _____

_____ _____

Signature of New Responsible Party Date

I acknowledge and understand that I am assuming full responsibility for maintaining all permanent best management practices and measures approved by the TCEQ for the site, until another entity assumes such obligations in writing or ownership is transferred.

If you have questions on how to fill out this form or about the Edwards Aquifer protection program, please contact us at 210/490-3096 for projects located in the San Antonio Region or 512/339-2929 for projects located in the Austin Region.

Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact us at 512/239-3282.

Deed Recordation Affidavit
Edwards Aquifer Protection Plan

THE STATE OF TEXAS §

County of _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____ who, being duly sworn by me, deposes and says:

(1) That my name is _____and that I own the real property described below.

(2) That said real property is subject to an EDWARDS AQUIFER PROTECTION PLAN which was required under the 30 Texas Administrative Code (TAC) Chapter 213.

(3) That the EDWARDS AQUIFER PROTECTION PLAN for said real property was approved by the Texas Commission on Environmental Quality (TCEQ) on _____.

A copy of the letter of approval from the TCEQ is attached to this affidavit as Exhibit A and is incorporated herein by reference.

(4) The said real property is located in _____ County, Texas, and the legal description of the property is as follows:

_____
LANDOWNER-AFFIANT

SWORN AND SUBSCRIBED TO before me, on this __ day of _____, ____.

_____
NOTARY PUBLIC

THE STATE OF _____ §

County of _____ §

BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (s)he executed same for the purpose and consideration therein expressed.

GIVEN under my hand and seal of office on this __ day of _____, _____.

_____
NOTARY PUBLIC

_____
Typed or Printed Name of Notary

MY COMMISSION EXPIRES: _____